



U.S. Department of Justice

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Southern District of New York*

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August 17, 2015

BY ECF

The Honorable Ronnie Abrams
United States District Judge
Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square
New York, New York 10007

**Re: *United States v. Rene Cardona*,
14 Cr. 314 (RA)**

Dear Judge Abrams:

The Government writes in response to defendant's August 13, 2015 letter to the Court ("Def. Ltr.") arguing that the 15-year mandatory minimum sentence that the defendant faces violates the Eighth Amendment's prohibition against cruel and unusual punishment. As essentially conceded by the defendant, this argument is of no merit. (*See* Def. Ltr. at 1 ("There have been a number of Eighth Amendment challenges to mandatory minimums in child pornography cases, and appellate courts have consistently held that these mandatory minimums do not violate the Eighth Amendment.")) Indeed, given the defendant's abhorrent conduct, a sentence within the Guidelines range of 292 to 365 months' imprisonment – well above the mandatory minimum sentence – is appropriate to serve the legitimate interests of sentencing in this case, and would not violate the Eighth Amendment. *See United States v. Yousef*, 327 F.3d 56, 163 (2d Cir. 2003) ("Lengthy prison sentences, even those that exceed any conceivable life expectancy of a convicted defendant, do not violate the Eighth Amendment's prohibition against cruel and unusual punishment when based on a proper application of the Sentencing Guidelines or statutorily mandated consecutive terms."); *United States v. Caracappa*, 614 F.3d 30, 45 (2d Cir. 2010) (citation and internal quotation marks omitted) ("[I]n a noncapital case, it is exceedingly rare to uphold a claim that a sentence within the statutory limits is disproportionately severe.")

Accordingly, the Government respectfully requests that the Court reject the defendant's argument that the 15-year mandatory minimum sentence that the defendant faces violates the Eighth Amendment.

Respectfully submitted,

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